

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

FILED
U.S. DISTRICT COURT
DISTRICT OF MARYLAND
2019 FEB 12 PM 1:07

KENNETH B. BUTLER, *et al.*, *

On behalf of themselves and on behalf of all other similarly situated individuals, *

Plaintiffs, *

Civil Action No. 1:16-cv-03309-ELH

v. *

BALTIMORE POLICE DEPARTMENT,
et al., *

Defendants. *

* * * * *

JOINT MOTION FOR MODIFICATION OF THE SCHEDULING ORDER

The parties, through counsel, having conferred and agreed upon modifications to the Joint Third Revised Scheduling Order (ECF 133), submit this Joint Motion for Modification of the Scheduling Order, and request that the Court approve their proposed modifications. The parties jointly state the following in support thereof:

1. The Joint Third Revised Scheduling Order was issued on July 31, 2018. ECF 133.
2. The parties are presently engaged in the discovery process, which is ongoing. The present discovery deadline is April 1, 2019.
3. As before, the parties have continued to engage in cooperative discovery practices; however, due to the complexity of this case involving approximately 2,335 plaintiffs with numerous variables contributing to their payroll calculations, Defendants, despite diligent efforts, have continued to experience formidable challenges in producing the relevant data and records in a usable database.

4. Defendants previously described, in Exhibit A, the technical difficulties of producing the electronically maintained payroll and time records. The payroll data has been produced. The time records, which are housed with a 3rd party vendor, have been retrieved through a large part of the class period. However, in order to be useful, those time records must be joined to/matched with the corresponding payroll information, on an entry-by-entry basis. This is a very painstaking process if it is to be done accurately. When this process is complete, Defendants expect the database to allow the parties to compare the amounts actually paid to the Plaintiffs against the amounts owed to the Plaintiffs as overtime under the Fair Labor Standards Act, to determine whether there was any discrepancy; and, if a discrepancy was established, the parties would be better positioned to evaluate meaningful settlement negotiations.

5. Just as the responses Defendants are continuing to prepare have taken an extensive amount of time to compile, Plaintiffs will then need ample time to review those records, which are expected to consist of, *inter alia*, wage and hour records on behalf of thousands of opt-in Plaintiffs. Thereafter, it is expected the parties will engage in further discovery, including depositions and potential follow-up written discovery.

6. For all of these reasons, discovery extensions have been granted due to the breadth and depth of this case.

7. In addition, Defendants responses to supplemental written discovery propounded by Plaintiffs are presently due on Wednesday, January 30, 2019. However, Plaintiffs have consented to Defendants' request for a 30-day extension, making their responses due on February 28, 2019.

8. Similarly, Defendants granted the FOP a two-week extension to respond to their subpoena. In addition, Defendants provided Plaintiffs an extension through January 30, 2019 to respond to Defendants' written discovery requests.

9. With the foregoing, and in order to avoid prejudice to either party in completing discovery, the parties jointly request that the Court's Scheduling Order be modified, as follows:

LITIGATION ACTIVITY	CURRENT DATE (ECF 133)	PROPOSED REVISED DATE
Discovery Cut-Off-Status Report	April 1, 2019	December 31, 2019
Requests for Admissions	April 30, 2019	January 31, 2020
Dispositive Motions	June 1, 2019	February 29, 2020 <i>March 2,</i>

ELH

WHEREFORE, the parties respectfully request that the Court grant their Joint Motion for Modification of the Scheduling Order, and instruct the Clerk to enter a revised Scheduling Order reflecting these modified dates.

LUCHANSKY MILLMAN

SHawe & ROSENTHAL, LLP

By: _____ /s/

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SO ORDERED:

Ellen L. Hollander 2/12/19
Judge, United States District Court
for the District of Maryland